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ROBERT H. FRANTZ, REGISTERED US PATENT AGENT

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In re the Application of:

John Falk Kelley )

Serial Number: 10/001,744 )

Group: 2172

Docket Number: AUS920010748US1 )

Examiner: Cam Y T Truong

Filed on: 10/31/2001 )

For: "Context Management Super Tools )  
and Filter/Sort Model for Aggregated )  
Display Webpages" )

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**APPEAL BRIEF (Substitute)*****Real Party in Interest per 37 CFR §41.37(c)(1)(i)***

The subject patent application is owned by International Business Machines Corporation of Armonk, NY.

***Related Appeals and Interferences per 37 CFR §41.37(c)(1)(ii)***

None.

***Status of Claims per 37 CFR §41.37(c)(1)(iii)***

On June 24, 2005, appellant appealed from the final rejections of claims 1 - 12. Independent claims 1 and 7 amended on November 10, 2005, while claims 2 - 6, and 8 - 12 remain in their originally filed states. Claims 1 - 12 are reproduced in the Appendix to this Appeal Brief.

Claims 13 - 15 are non-elected claims responsive to a restriction requirement made by the examiner in the Office Action of 8/10/2004, and thus stand withdrawn from this application. Please note that in the Office Action of March 24, 2005, Examiner has noted that applicant provided the election with traverse, but alleged that no reasoning was provided by applicant for the traverse. This is an inaccurate reflection of the prosecution history, as applicant elected without traverse.

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***Status of Amendments after Final Rejections per 37 CFR §41.37(c)(1)(iv)***

No amendments to the claims have been submitted or entered after final rejections.

***Summary of the Claimed Subject Matter per 37 CFR §41.37(c)(1)(v)***

Most user interfaces employ an Action-Object paradigm, wherein a user first selects an *action* to perform, and then selects the *object* on which to perform that action. For example, when using a word processor, one may first select the *action* "File-Open", and then the user selects an *object* "MyDocument.doc" on which the File-Open *action* is to be performed.

Some user interfaces employ an Object-Action Navigation paradigm ("OAN"), in which the user first selects the *object* on which to act, and then selects the *action* to perform. For example, when using Windows Explorer to open a file stored on a computer hard drive, a user first selects the object "MyDocument.doc" by sing-clicking on it, and then may select an *action* by clicking on "File-Open", "File-Rename", "Edit-Copy", etc.

OAN paradigms are well known in the art for certain types of user interfaces, such as Windows Explorer, where the "objects" are of the same type (e.g. files specified by pathnames). We refer to such similar type objects a "heterogenous" objects.

Using the present invention, a user is allowed to automatically collect, filter, sort, and aggregate information from a variety of different sources (e.g. "heterogenous" sources) using a set of scripts and modules, using an Object-Action Navigation paradigm by selecting an object in the Context Pane, resulting in updated display results in the Content Pane. This allows a user to use a OAN interface on a variety of different data types via the automatic employ of the scripts and modules. We have provided an example of a commodities, investment, or stock trader's turret console, where information from different sources such as streaming data, web pages, stock quote systems, etc., is aggregated into the Content Pane, and controlled by the user's actions in the Context Pane.

The invention provides information to a user through an Object-Action Navigation paradigm (Fig. 9 #96, #904, #98; para. [0034] pg. 10 line 12) by displaying in a web page a Context Pane (#32 in Figs. 3, 4, 5; #36 in Figs. 6, 7, and 8; para. [0027] pg. 7 line 14) having one or more selectable objects of interest to a user, and displaying in the same web page a plurality of selectable heterogeneous actions associated with an object and responsive to user selection of

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an associated object.

When the user selects one of the selectable actions, an action script is executed to generate a set of results (para. [0028] pg. 7 line 16), which are then displayed in the same said web page in a Content Pane (para. [0028] pg. 7 line 17), which is separate from the Context Pane. The Content Pane shows an aggregation results (para. [0025] pg. 7 line 2, para. [0041] pg. 13 line 19) from a plurality of semi-independent (para. [0028]) heterogeneous information modules (para. [0025] pg. 7 line 2, para. [0041] pg. 13 line 19), heterogeneous transactional modules (para. [0036] pg. 11 line 5), or both, with the information being filtered and sorted according to said user's interest as indicated by a most recent selection in said Context Pane.

***Grounds for Rejection For Which Review is Sought per 37 CFR §41.37(c)(1)(vi)***

Claims 1 - 4, 6, 7 - 10, and 12 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,452,609 to Katinsky, *et al.*, (hereinafter "Katinsky") in view of U.S. Patent 5,913,214 to Madnick, *et al.* (hereinafter "Madnick"), as stated in page 2 of the Office Action of 3/24/2005.

Claims 5 and 11 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over Katinsky in view of Madnick, in further view of U.S. Patent 5,806,077 to Wecker (hereinafter "Wecker"), and in further view of U.S. Patent 6,452,609 to Nikolovska (hereinafter "Nikolovska"), as stated in page 6 of the Office Action of 3/24/2005.

Claims 1 - 4, 6, 7 - 10, and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,452,609 to Katinsky, *et al.*, (hereinafter "Katinsky") in view of U.S. Patent 5,913,214 to Madnick, *et al.* (hereinafter "Madnick"), in further view of U.S. Patent 5,806,077 to Wecker (hereinafter "Wecker"), as stated in page 7 of the Office Action of 3/24/2005.

Claims 5 and 11 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over Katinsky in view of Madnick, in further view of U.S. Patent 5,806,077 to Wecker (hereinafter "Wecker"), and in further view of U.S. Patent 6,452,609 to Nikolovska (hereinafter "Nikolovska"), as stated in page 11 of the Office Action of 3/24/2005.

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***Arguments per 37 CFR §41.37(c)(1)(vii)*****Rejections under 35 U.S.C. §103(a) over Katinsky in view of Madnick**

Claims 1 - 4, 6, 7 - 10, and 12. In the Office Action, claims 1 - 4, 6, 7 - 10, and 12 were rejected formally over Katinsky in view of Madnick (pages 2 - 6 of the Office Action).

However, in the rationale for the rejections, Wecker is employed (see page 4, line 12 of the Office Action). It is improper to employ references which are not formally cited in the proposed combination, and thus the rejections of claims 1 - 4, 6, 7 - 10, and 12 over Katinsky in view of Madnick should be reversed.

It is therefore implied in the rationale for the rejections under Katinsky-Madnick (without Wecker) that the teachings of Wecker are necessary to teach or disclose an element, step, or limitation of our claims. As such, it is improper to maintain a rejection on a proposed combination of references which does not teach all of the claimed steps, elements, and limitations, and the rejections of claims 1 - 4, 6, 7 - 10, and 12, and reversal of these rejections is requested.

Please note that on Page 7 of the Office Action, these same claims have been rejected over Katinsky in view of Madnick "and Wecker". The rationale following these rejections in pages 7 - 11 of the Office Action appears to be a duplicate of the rejections over Katinsky in view of Madnick, and thus the arguments in the following paragraphs directed towards the Katinsky-Madnick-Wecker combination also apply to the Katinsky-Madnick combination.

**Rejections under 35 U.S.C. §103(a) over Katinsky in view of Madnick in further view of Wecker in further view of Nikolovska**

Claims 5 and 11. In pages 6 - 7 of the Office Action, claims 5 and 11 were rejected over Katinsky in view of Madnick, Wecker, and in further view of Nikolovska.

Claim 5 is dependent on Claim 1, and Claim 11 is dependent on Claim 7. For the same reasons argued in the foregoing and following paragraphs, the proposed combination of Katinsky, Madnick, with or without Wecker, and additionally Nikolovska has not been properly established as a combination and modification which would have been obvious to one ordinarily skilled in the art at the time the invention was made for lack of suggestion or motivation in the cited art to make the four-way combination and modification.

For these reasons, Appellant requests reversal of the rejections of and allowance of

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claims 5 and 11.

**Rejections under 35 U.S.C. §103(a) over Katinsky in view of Madnick in further view of Wecker**

Claims 1 - 4, 6, 7 - 10, and 12. In pages 7 - 11 of the Office Action, claims 1 - 4, 6, 7 - 10, and 12 were rejected over Katinsky in view of Madnick in further view of Wecker. The rationale for these rejections appears to be a duplicate of the rationale for the rejections of these same claims under Katinsky in view of Madnick without Wecker. The following arguments also are pertinent to the Katinsky-Madnick-without-Wecker combination.

Katinsky's invention provides *homogeneous* actions for *homogeneous* objects – all *actions* are “play” or “present” actions, and all *objects* are “media objects” (Katinsky, col. 3, lines 50 - 54, emphasis added):

The media streams may be a variety of media types, such as text, audio, images, animation, video, executable code, or any combination of media types. The Internet site is a media-type neutral system, i.e., it treats different media types, such as audio and video, in a similar fashion.

(Katinsky, col. 6, lines 1 - 19, emphasis added):

As shown in FIG. 7, the object player 16 is used to play the currently selected media object from the play list 50 in the sequencer 14. The object player includes an image display window 80 and a control panel 82. The object player 16 can use any program that can be embedded in a web page that presents media objects. Examples of streaming media programs that can be embedded are QuickTime.TM., RealMedia.TM., and Microsoft Media Player.TM.. Streaming media players, such as the illustrated RealMedia Player, include the control panel features, such as a stop button 100, a pause/play button 102, a previous button 104 and a next button 106. a vertical-slider control 108 provides audio volume control, and a horizontal slider control 110 provides fast forward/rewind control and indicates the amount of the stream that has been and remains to be played. A display panel 112 presents the current status of the media object, e.g., playing or paused, and a clock 114 shows the total duration of the multimedia object and the elapsed time.

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Katinsky fails to disclose retrieving information such as historical stock trading data, nor such processing data, such as graphing the historical trends of stock data.

Further, Katinsky's display does not use a traditional web page as we have claimed, but instead uses a "pageless" design (col. 3, lines 42 - 48):

... In addition, the Internet site is "pageless", in that media streams are delivered to the user without the user having to navigate to different pages. ...

without using traditional text-based web pages (Katinsky col. 3 line 63 - col. 4 line 6, emphasis added):

The pageless Internet site is an inversion of conventional web site design. In conventional web site design the media object is the last link in a long chain of pages and links. The setting, context, meaning, and relevance of the media object are established in hypertext, and the media object is an adornment for the hypertext. In contrast, in the pageless Internet site, the media object is the starting point. The pageless Internet site is media-oriented, as opposed to being text-oriented with media annotations. In short, the principle of organization of web page 10 is the relationship between media objects, rather than the relationship between pages.

Finally, Katinsky does not *aggregate* information into a simultaneous display of different informational items as we have claimed, but instead sequences the playing of media objects (Katinsky col. 3 lines 45 - 44 - 47, col. 4 line 9, col. 5 line 3).

In the rationale for the final rejections of claims 1 and 7, it was proposed that "it would have been obvious to a person of an ordinary skill in the art ... to apply Madnick's teaching of aggregating results from different resources to Katinsky's system in order to retrieve data from semi-structured data source corresponding to user's request and further to provide the most relevance results corresponding to user's request" (pg. 4, lines 18 - 22).

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A *prima facie* case of obviousness has not been properly established, as this rationale is in error because Katinsky in view of Madnick, and alternatively Katinsky in view of Madnick in further view of Wecker, would not have been obvious to combine because Katinsky teaches of “pageless” systems for handling of “sequenced media object presentation”, while Madnick teaches a page-oriented design (not pageless) for handling semi-structured data (silent regarding media objects, audio, streaming video, etc.), and Wecker teaches of a page-oriented design (not pageless) for displaying hyperlinks (but not executing scripts, adopting an OAN model, etc.).

No citation is provided where in the cited art it is suggested or taught that Katinsky’s pageless media-only player system could be modified to be a page-based, semi-structured data hyperlink displayer. In order to establish a case of obviousness under 35 U.S.C. 103(a), the Examiner must cite where motivation to make such a combination or modification is taught in the cited references, even if the references “could” have been modified. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

In the rationale provided by the Examiner, by citing the “user’s preferences”, it appears that Examiner considers motivation to be found due to increase convenience to the user, but this is controverted by the apparent teaching away of Katinsky to using a page-based design and the undesirability, not just a design trade-off choice, according to Katinsky of such page-based, conventional web sites, which points towards non-obviousness. *In re Rudko*, Civ. App. No. 98-1505 (Fed. Cir. May 14, 1999) (unpublished). *Winner Int’l Royalty Corp. V. Wang*, 202 F3d 1340, 53 USPQ2d 1580 (Fed. Cir.), *cert. denied*, 530 U.S. 1238 (2000).

Appellant submits that given the apparent teaching away and teaching of lack of desirability of the primary reference, and the number of secondary references needed to arrive at the proposed combination, obviousness has not been properly established and does not exist. Therefore, Appellant requests reversal of the rejections of and allowance of claims 1 - 4, 6, 7 - 10, and 12.

**Rejections under 35 U.S.C. §103(a) over Katinsky in view of Madnick in further view of Wecker in further view of Nikolovska**

**Claims 5 and 11.** On page 11 of the Office Action, claims 5 and 11 were rejected over Katinsky in view of Madnick, Wecker, and in further view of Nikolovska. The following rationale appears to be a duplicate of the rationale for the rejections of the same claims presented

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in pages 6 - 7 of the Office Action. For the same reasons as stated in the foregoing paragraphs regarding these same claims and the same proposed Katinsky-Madnick-Wecker-Nikolovská combination, reversal of the rejections of Claims 5 and 11 is requested.

### *Summary of Arguments*

It is pointed out by appellant that two sets of rejections appear to be presented in the Office Action, but each has apparently been duplicated once, so that in actuality four sets of rejections have been made.

While it is believed that this is an unintentional typographical error, examiner's requirement in the Notice of Non-Compliant Appeal Brief dated 09/13/2005 for appellant to specifically address the rejections of Katinsky-Madnick without Wecker has necessitated the submission of the present substitute Appeal Brief in which these errors are argued.

For the foregoing reasons, it is submitted that the rejections of Claims 1 - 12 were erroneous, and allowance of these claims is respectfully requested.

Respectfully Submitted,

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**Claims Appendix***per 37 CFR §41.37(c)(1)(viii)***Clean Form of Amended Claims**

Claim 1 (previously amended):

A method for providing information to a user through an Object-Action

Navigation paradigm comprising the steps of:

- displaying in a web page a Context Pane having one or more selectable objects of interest to a user;

- displaying in said web page a plurality of selectable heterogeneous actions associated with an object and responsive to user selection of an associated object;

- executing an action script in response to user selection of a selectable action, said action script generating a set of results; and

- displaying in said web page to said user said action script results in a Content Pane, said Content Pane containing an aggregation results from a plurality of semi-independent heterogeneous information modules, heterogeneous transactional modules, or both, said information being filtered and sorted according to said user's interest as indicated by a most recent selection in said Context Pane.

Claim 2 (original)

The method of Claim 1 wherein said step of executing an action script comprises performing a search for information related to said selected object.

Claim 3 (original):

The method of Claim 1 wherein said step of executing an action script comprises retrieving data or information from a database.

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**Claim 4 (original):**

The method of Claim 1 wherein said step of executing an action script comprises the step of retrieving current data or information from a datafeed.

**Claim 5 (original):**

The method of Claim 1 wherein said step of displaying said results in a content pane further comprises filtering and sorting said results prior to display.

**Claim 6 (original):**

The method of Claim 1 wherein said step of displaying said results in a content pane comprises organizing said content pane into a plurality of selectable workspaces.

**Claim 7 (previously amended):**

A computer readable medium encode with software for providing information to a user through an Object-Action Navigation paradigm, said software causing a user computer to perform the steps of:

display in a web page a context pane having one or more selectable objects of interest to a user;

display in said web page a plurality of selectable heterogeneous actions associated with an object and responsive to user selection of an associated object;

execute an action script in response to user selection of a selectable action, said action script generating a set of results; and

display in said web page to said user said action script results in a Content Pane, said Content Pane containing an aggregation results from a plurality of semi-independent heterogeneous information modules, semi-independent heterogeneous transactional modules, or both, said information being filtered and sorted according to said user's interest as indicated by a most recent selection in said Context Pane.

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## Claim 8 (original):

The computer readable medium of Claim 7 wherein said software for executing an action script comprises software for performing a search for information related to said selected object.

## Claim 9 (original):

The computer readable medium of Claim 7 wherein said software for executing an action script comprises software for retrieving data or information from a database.

## Claim 10 (original):

The computer readable medium of Claim 7 wherein said software for executing an action script comprises software for retrieving current data or information from a datafeed.

## Claim 11 (original):

The computer readable medium of Claim 7 wherein said software for displaying said results in a content pane further comprises software for filtering and sorting said results prior to display.

## Claim 12 (original):

The computer readable medium of Claim 7 wherein said software for displaying said results in a content pane comprises software for organizing said content pane into a plurality of selectable workspaces.

Claims 13 - 15 (previously withdrawn).

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**Evidence Appendix**  
*per 37 CFR §41.37(c)(1)(ix)*

No evidence has been submitted by applicant or examiner pursuant to 37 CFR §§1.130, 1.131, or 1.132.

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**Related Proceedings Appendix**

*per 37 CFR §41.37(c)(1)(x)*

No decisions have been rendered by a court or the Board in the related proceedings as identified under 37 CFR §41.37(c)(1)(ii).